

the channel. See claims 1 and 3.

In the preferred embodiment, the channel marking and drug delivery catheter subsystem is in the form of two separate catheters. See claim 2. The various therapeutic or diagnostic agents which are applied via the drug delivery catheter are disclosed in the application at page 9, lines 10-22.

The Examiner issues a double patenting rejection in light of U. S. Patent No. 6,030,377 to Linhaires, and rejects the claims as anticipated by Linhaires under 35 USC §102(e) and as anticipated by U.S. Patent No. 6,023,638 to Swanson under 35 USC §102(e).

The Examiner incorrectly holds that Linhaires teaches "a channel marking and drug delivery catheter [subsystem] 16 connected to a source of therapeutic or diagnostic agent [see Fig. 15]".

The truth is catheter 16, as disclosed in Linhaires, is only a marking catheter connected only to dye syringe 32. Thus catheter 16 is not configured to deliver therapeutic or diagnostic agents and no therapeutic or diagnostic agents are disclosed in Linhaires.

Thus, Linhaires fails to teach or suggest both a channel marking and a drug delivery catheter and both a source of a channel marking medium and a source of a therapeutic or diagnostic agent as claimed in the subject application. Thus, the double patenting and §102(e) rejections are improper.

The Examiner states Swanson teaches "channel marking and drug delivery catheter [subsystems] 314, 316, connected to an imaging medium source and a source of therapeutic or diagnostic agents for applying the imaging and/or therapeutic agent in or

proximate the channel (Col. 13, lines 9-20)."

Catheter 314, as disclosed in Swanson, is an instrument such as an ultrasound transducer or a CT or MRI scanner. See Swanson, Col. 13, lines 5-20. As shown in Fig. 39, catheter 314 includes electrode 368 for sensing electrical activity in the tissue, electrodes A-H provide "stunning energy," and catheter 316 includes imaging device 372. See Swanson, Col. 14, line 49-Col. 15, line 20.

No therapeutic or diagnostic agent catheter is shown or described in Swanson. Instead, the Examiner relies on the following statement in Swanson: "Other exemplary operative elements include device [sic] to deliver drugs or therapeutic material to body tissue, or electrodes for sensing a physiological characteristic in tissue or transmitting energy to stimulate or ablate tissue." Swanson, Col. 13, lines 16-20.

This is hardly a teaching under 35 USC §102 of a system with a) a treatment catheter connected to an energy source, b) a drug delivery catheter connected to a drug source, and c) a marking catheter connected to a marking medium source wherein both the imaging medium and the drug are applied in or proximate the channel created in the heart wall by the treatment catheter as clearly claimed by the applicant.

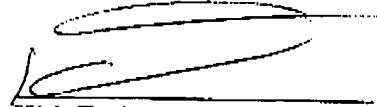
Instead, Swanson teaches catheter 316 is for imaging, catheter 368 is for sensing electrical activity, and electrodes A-H provide stunning energy. By the way, states Swanson, other operative elements can be used to deliver drugs to body tissue. But, that "disclosure" is far from sufficient to enable one skilled in the art with the system claimed by the applicant wherein a channel is lased in the heart, a marking medium is delivered in or proximate the channel, and a therapeutic drug is delivered in or proximate the channel.

Accordingly, Swanson is not a proper §102 reference.

Each of the Examiner's rejections has been addressed or traversed. Accordingly, it is respectfully submitted that the application is in condition for allowance. Early and favorable action is respectfully requested.

If for any reason this Response is found to be incomplete, or if at any time it appears that a telephone conference with counsel would help advance prosecution, please telephone the undersigned or his associates, collect in Waltham, Massachusetts, (781) 890-5678.

Respectfully submitted,



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